

# State of Connecticut

GEORGE JEPSEN  
ATTORNEY GENERAL



Hartford  
September 23, 2013

Board of Selectmen  
Board of Finance  
Town of Bridgewater  
P.O. Box 216  
Bridgewater, Connecticut 06752

Dear Board Members:

I write regarding the Town of Bridgewater's William D. Burnham Fund (the "Fund") and my Office's investigation of its use and alleged misuse over the last decade. As you know, our investigation of the Fund was undertaken pursuant to the authority and responsibility of the Office of the Attorney General ("OAG") to "represent the public interest in the protection of any gifts, legacies or devises intended for public or charitable purposes." Conn. Gen. Stat. § 3-125.

Our investigation involved the review of numerous documents received from the Town of Bridgewater (the "Town") and other sources, as well as interviews of approximately 20 residents concerning distributions from the Fund and Fund management.

One focus of our review has been to determine if past Fund distributions deviated from the original charitable purpose of William D. Burnham to assist the poor of Bridgewater, including whether any distributions were made for improper personal gain. As discussed herein, we have concluded that some past Fund distributions, while well-intentioned, failed to serve the charitable purposes intended by Mr. Burnham. However, there is insufficient evidence to conclude that any distributions were made for personal gain or private purposes.

The other, equally significant, focus of our review has been to identify and address any inadequacies in policies governing Fund management. Through dialogue with the Town, we have agreed upon a variety of improvements to these policies that, if properly implemented, will ensure that charitable purpose is followed and all fund expenditures appropriate.

The purpose of this letter is to summarize the results of our review and to advise you that we do not, at this time, anticipate taking further action with respect to the Fund, except as necessary to seek updates on the implementation of agreed-upon policy changes.

### The Policy

We have identified standards and procedures to ensure adherence to William D. Burnham's charitable intent to create a fund "for the benefit and relief of the poor" of Bridgewater. In particular, determining "poverty" for purposes of eligibility for Fund disbursements must be guided by reasonable and objective financial criteria. The Town has agreed to use the annual Connecticut Department of Social Service Household Income Guidelines – Contingency heating Assistance Program as the measure of eligibility. In addition, we have agreed that no disbursements from the Fund will be made for relief of "emergency" or "temporary" crises unless the recipient also meets the above-referenced objective financial eligibility criteria.

We have also agreed on significant revisions to the management policy for the Fund ("the Policy") in order to strengthen checks and balances in governance. Until recently, distribution decisions were made at the discretion of the First Selectman. Pursuant to our discussions, the Town agreed that distribution decisions would be made by a Burnham Fund Selection Committee composed equally of members of the Boards of Selectmen and Finance. This structure will ensure that no single individual will have discretion to direct distribution decisions.

Through our most recent discussions, we have agreed on further refinements to improve the Policy. First, the composition of the Burnham Fund Selection Committee will now include the three members of the Board of Selectmen and three members from the Board of Finance. Second, the Policy now requires a four (4) member quorum to conduct business and a four (4) member vote to approve a distribution. This will ensure the participation of members from each Board in each distribution.

In light of these Policy revisions, I am now satisfied with the adequacy of the Fund's administrative structure.

### Review of Distributions from the Fund

As noted, we have also reviewed the historical management of the Fund and the appropriateness of each past Fund distribution.

The Statute of Charitable Uses, Conn. Gen. Stat. § 47-2, requires that gifts for charitable uses "forever remain to the uses to which there were granted," and Conn. Gen. Stat. § 21a-190h, a provision in the Solicitation of Charitable Funds Act, prohibits financial transactions unrelated to an intended charitable purpose or for a private use.

We found that most of the distributions over the last ten years were for scholarships for college students. Although laudable, the funding of educational pursuits was not the specific charitable intent of William D. Burnham in establishing the Fund. As such, no further distributions should be made for scholarships from the Fund that are not also consistent with William D. Burnham's charitable intent and the new Policy – that is, unless the recipient also meets the Fund's financial eligibility criteria.

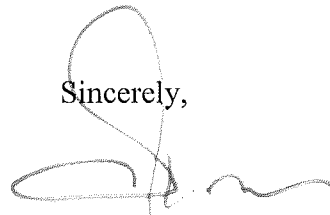
The other distributions made from the Fund fall into two categories: those with identifiable recipients, and those without. Based on our investigation, past Fund distributions made directly to identifiable individuals had a sufficient basis of financial need to justify the distributions, even though the process and standards by which these distributions were made were undocumented and undefined.

Other distributions for which there are no reliably identifiable recipients were in the form of gas and food gift cards purchased with Fund money and distributed to Town residents. There is insufficient documentary or other evidence to conclude that the distribution of these cards constituted a systematic deviation from William D. Burnham's charitable intent to assist the poor of Bridgewater or that Fund assets had been misappropriated by any person for personal or financial gain.<sup>1</sup> However, it is vital that all future distributions from the Fund be adequately documented and made in compliance with the Policy as revised.

In conclusion, we are closing our review of the Fund, and will take no further action except to seek occasional updates on the implementation of the Policy. Further action by this office would not likely produce benefits to the public sufficient to justify the expenditure of additional resources by my Office and the community of Bridgewater.

Thank you for all of your work on the Policy. As noted above, I believe its structure will help facilitate proper distributions from the Fund going forward. If you have any questions regarding this letter, please do not hesitate to contact Assistant Attorney General Gary W. Hawes at 860-808-5020 or [gary.hawes@ct.gov](mailto:gary.hawes@ct.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Jepsen", with a stylized flourish at the end.

GEORGE JEPSEN  
ATTORNEY GENERAL

cc: Gary W. Hawes, AAG

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<sup>1</sup> As part of the investigation, there were uncorroborated allegations that in a small number of instances, personal feelings or motives influenced decisions to *forego* fund distributions. My office has determined that this information provides an insufficient basis to seek any sort of legal redress. We emphasize that the newly implemented governance policies discussed herein insulate the Fund from any such inappropriate decision-making in the future.